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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,965	10/09/2003	Robert A. Matousek	RYLZ 2 01012	7780
27885	7590	09/01/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER

1744

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/681,965

Applicant(s)

MATOUSEK ET AL.

Examiner

Terrence R. Till

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7,9,12-19,21,22,25,26,28,29 and 31 is/are rejected.
- 7) ☒ Claim(s) 3-5,8,10,11,20,23,24,27 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/03, 10/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. In claim 22, "said pivot joint" lacks antecedent basis as claim 22 depends on claim 12 and claim 16 first introduces the pivot joint.

### *Double Patenting*

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 2, 12-15, 16, 17, 25, 28 and 29 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, 11, 25

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and 28 of copending Application No. 10/340,247. Although the conflicting claims are not identical, they are not patentably distinct from each other because the combination of claims 1 and 2 of the '247 application fully encompass all the claimed features presented in claims 1 and 12 of the present application. Claim 11 of the '247 application fully encompasses the claimed features of claims 2 and 17 of the present application. Further, claim 25 of the '247 application is considered to disclose all the claimed subject matter of claim 1 of the application with exception of a conduit communicating said nozzle with said vacuum cleaner. However, It would have been obvious to a person skilled in the art at the time the invention was made to provide a conduit to claim 25 of the '248 application to have the suction nozzle communication with the vacuum cleaner. Also the combination of claims 1 and 2 of the '247 application is considered to fully encompass the claimed subject matter presented in claim 12 of the application. Claim 3 of the '247 application is also considered to fully encompass the claimed subject matter presented in claim 12 of the application and additionally discloses the limitations found in claim 18. Claim 5 of the '247 application is considered to fully encompass the claimed subject matter of claim 13 and the combination of claims 5-7 of the '247 application are considered to disclose the claimed combination of claims 14 and 15 of the present application. Lastly, the combination of claims 1 and 2 of the '247 application are considered to fully encompass all the claimed recitations of claim 25 of the present application. Claim 11 of the '247 application is considered to disclose the same limitations as presented in claim 29 of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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6. Claims 1, 12, 13, 25 and 28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 6, 13, 16 and 17 of copending Application No. 10/669,214. Although the conflicting claims are not identical, they are not patentably distinct from each other because the combination of claims 1 and 3 of the '214 application is considered to fully encompass all the claimed subject matter of claim 1 of the present application. Claims 1 and 6 of the '214 application is considered to fully encompass the claimed subject matter presented in claims 12 and 13 of the present application. Claims 13, 16 and 17 of the '214 application is considered to fully encompass the claim limitations of claim 25 of the present application and claim 17 also recites the limitations found in claim 28 of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 6, 7, 12, 13, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by European patent application to Prudenziati (EP 1027855- cited in IDS).

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9. The publication to Prudenziati discloses all the recited subject matter including a vacuum cleaner comprising: a suction nozzle 15A; a housing 5, connected to said suction nozzle; a suction fan and motor 37, assembly mounted to said housing; a dirt collecting receptacle 35, mounted to said housing and in communication with said suction nozzle and suction fan and motor assembly; and, a support plate 53, pivotally mounted to said housing as can be seen in figures 3 and 4, said support plate selectively holding a cleaning sheet 63 for collecting dust and debris from a surface to be cleaned. Prudenziati further discloses a conduit 3, extending between said suction nozzle and said dirt collecting receptacle and a wand 13 extending between the conduit and the nozzle. Prudenziati further discloses the dirt collecting receptacle comprises a dirt cup which has an inlet and an outlet, wherein said inlet communicates with an outlet of said suction nozzle and said dirt cup outlet communicates with an inlet of said suction fan and motor assembly, and the suction nozzle is pivotably connected to said housing. Prudenziati also discloses said support plate comprising a top surface having at least one clip 55,57, for securing said cleaning sheet to said support plate, a handle 3B, extending from said housing, and a plurality of bristles 17A mounted to said suction nozzle (indirectly).

10. Claims 12-15, 19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Parker et al. (2004/0045126- Cited in IDS)

11. The patent to Parker et al. discloses a vacuum cleaner comprising: a support plate 20 selectively holding an electrostatic cleaning sheet 118 via at least one clip 120; a handle 12 pivotably connected to said support plate; a housing 14 mounted to one of said handle and said support plate; a suction fan 68 and motor 50 assembly mounted to said housing; a dirt collecting receptacle 80, having a filter 86, mounted to said housing; and a suction nozzle 104 connected to

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said housing. The dirt collecting receptacle comprises a dirt cup and Parker et al. further discloses a conduit 30,92 communicating said suction nozzle with said housing.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claims 14, 15, 25, 26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over European publication to Prudenziati in view of Morgan et al. (6,629,332)

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16. Prudenziati discloses all of the recited subject matter with exception of disclosing a filter detachably mounted in the dirt cup. The patent to Morgan et al. discloses a floor cleaning device similar to that of Prudenziati which further discloses a filter 562 before the motor fan located within the dirt cup. It would have been obvious to a person skilled in the art at the time the invention was made to provide Prudenziati with a filter detachably mounted in the dirt cup in order to prevent any airborne debris from getting into the motor and shortening its life.

***Allowable Subject Matter***

17. Claims 3-5, 8, 10, 11, 20, 23, 24, 27 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent application to Wu discloses a steam cleaner with a sheet attachment structures.

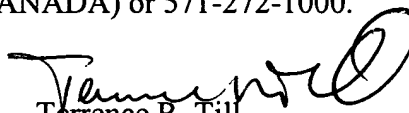
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Terrence R. Till  
Primary Examiner  
Art Unit 1744

trt